IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3256 OF 2005

Rohini Pradyumna Kapadia .. Petitioner

V/s

Maharashtra Housing & Area Development Authority & ors. .. Respondents

Mr. Shyam Diwan i/b Vimal Tiwari for the Petitioner.

Mr. R.M. Sawant, Government Pleader, for Respondents Nos.1 and 2.

Ms. A.K. Savla for Respondent No.3.

Mr. Maniar for Respondent No.5.

Mr. Bharat Choudhary with Mr. Sandeep Parikh and Mr.H.J. Engineer i/b Gordhandas & Forzdar for Respondents Nos.6 to 8.

Mr. Snehal Shah i/b Mr. N. Srivastav for the Applicant.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATE : 19TH JANUARY 2005

P.C. :

1. Heard the learned counsel for the parties. 2. The Petitioner is a sister of Respondents Nos.6 to 8 who have been given a NOC on 9th August 2004 to reconstruct and develop a building known as "Govardhan Bhavan" situated in Girgaum, Mumbai. The Petitioner has

challenged that NOC granted by Respondents Nos.1 and 2, i.e. MHADA and Mumbai Board, to Respondent No.5 who is a Developer appointed by Respondents Nos.6 to 8. The submission on behalf of the Petitioners is that initially that NOC was issued, subsequently the show cause notice was issued to withdraw that NOC and now that show cause notice has been revoked. The contention is that amongst the conditions of the NOC, condition No.16 provides that if any document submitted along with the application for NOC is found incorrect or forged, then the NOC will be cancelled. The Petitioner submits that such are the circumstances or must be the circumstances leading to this cancellation.

3. Although this is the submission made, the real dispute between the Petitioner on the one hand and Respondents Nos.6 to 8 is obviously a property dispute. There has been a litigation amongst them and the interest of the Petitioner has come to be protected by orders of this court whereunder Respondent No.5 has deposited Rs.40,00,000/- in the High Court. Over and above that, it is also provided that an area of 3000 sq.ft. is to be separately provided for the Petitioner in the building to be reconstructed. That takes care of the interest of the Petitioner.

4. That apart, as far as the grievance based on condition No.16 is concerned, Mr.Sawant, Government Pleader, has made a statement as follows:-

> "Statement is made on behalf of Respondents Nos.1 and 2 that the show cause notice dated 8th October 2004 was issued not on account of any forged documents but only on account of the fact that the Respondent No.5 had failed to disclose the proceedings in the nature of suit pending in this Hon'ble Court. However, in reply to the said show cause notice, the Respondent No.5 replied through his Advocate and submitted the order dated 30th September 2004 passed by His Lordship the Hon'ble Mr.Justice Deshpande in Notice of Motion No.2749 of 2004 in Suit No.769 of 2004. In view of the said order, the said show cause notice was withdrawn and an additional condition was imposed incorporating the Court's order incorporating the condition imposed by His Lordship the Hon'ble Mr.Justice Deshpande in the said order dated 20th September 2004."

5. In view of the protection of the interest of the Petitioner and clarification with respect to the issuance of the show cause notice and the withdrawal thereof, we do not find there is any reason to entertain this petition any more. Petition is dismissed.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)